

FEDERAL CIVIL RIGHTS AND ILLINOIS
TORT IMMUNITY CASE LAW UPDATE
2019-2020

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Fifth Amendment Takings Claim Ripe in Federal Court

Knick v. Township of Scott

- Landowner's federal takings claim was ripe in federal court
- Overruling *Williamson County* and holding that plaintiff was not required to pursue compensation under state law before bringing 5th Amendment takings claim in federal court

Probable Cause Bars Retaliatory Arrest Claim

Nieves v. Bartlett

- Probable cause bars 1st Amendment retaliatory arrest claim against officer
- Except where similarly situated persons not engaged in the same sort of First Amendment speech would not be arrested

Qualified Immunity

City of Escondido v. Emmons – clearly established law should not be defined at high level of generality

Johnson v. Rogers – takedown of resistive subject with kick or leg sweep did not violate clearly established law

Day v. Wooten – leaving obese suspect cuffed behind his back after he complained of difficulty breathing did not violate clearly established law

State Created Danger Doctrine

Estate of Her v. Hoepfner – operation of public man-made swimming pond did not constitute “state created danger” for purposes of federal due process liability in suit by family of drowning victim

Weiland v Loomis – law regarding “state created danger” doctrine was not clearly established and entitled correctional officer qualified immunity

Statute of Limitations - Wrongful Prosecution/Conviction Claims

McDonough v. Smith – section 1983 due process “fabricated evidence” claim accrues upon acquittal

Savory v. Cannon – section 1983 *Brady* claim accrues upon acquittal

Termination of Police Chief Violates Procedural Due Process

Bradley v. Village of University Park

- Police chief sued village and mayor over termination without good cause or hearing
- 7Th Circuit reversed dismissal:
 - Availability of state law remedies did not preclude federal *Monell* claim

Discretionary Immunity

Andrews v. MWRD

- MWRD not entitled to discretionary immunity because no evidence that its engineers made conscious decision to act or not act with respect to conditions that caused plaintiff's injuries, citing *Monson v. City of Danville*.

Berry v. City of Chicago

- Decisions *how* City conducted replacement of lead water pipes, as required under industry standards, were not discretionary for immunity purposes

Actual or Constructive Notice

Enbridge v. Village of Romeoville

- Crude oil pipeline operator sued village and private landowner for rupture of pipeline located under public street
- Village did not have actual or constructive notice of the specific defective condition that caused the oil rupture

High Speed Police Pursuits

Dayton v. Pledge

- Officer pursuing suspect at 100 mph struck vehicle killing passenger and injuring driver
- Appellate Court affirmed \$3.9 million verdict

Winston v. City of Chicago

- Police general order violations are not *per se* willful and wanton or proximate cause but create questions of fact